

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Rippey Post Office
Rippey, Iowa

Docket No. A2012-56

ORDER AFFIRMING DETERMINATION

(Issued February 21, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On November 4, 2011, Mary Weaver (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Rippey, IA post office (Rippey post office).² The Final Determination to close the Rippey post office is affirmed.³

II. PROCEDURAL HISTORY

On November 22, 2011, the Commission established Docket No. A2012-56 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On November 21, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

² Petition for Review received from Mary Weaver regarding the Rippey, IA post office 50235, November 4, 2011 (Petition).

³ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁴ Order No. 990, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 22, 2011.

⁵ The Administrative Record is included with the United States Postal Service Notice of Filing, November 21, 2011; United States Postal Service Notice of Filing Corrected Administrative Record [Errata], December 29, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Rippey, IA Post Office and Establish Service by Rural Route Service (Final Determination). The Postal Service also filed United States Postal Service Notice of Filing Memorandum to Clarify the Administrative Record, December 29, 2011 (Postal Service Memorandum).

⁶ United States Postal Service Comments Regarding Appeal, December 29, 2011 (Postal Service Comments).

Petitioner filed a participant statement supporting her Petition.⁷ On January 12, 2012, the Public Representative filed reply comments.⁸

III. BACKGROUND

The Rippey post office provides retail postal services and service to 79 post office box customers. Final Determination at 2. One hundred forty four delivery customers are served through this office. The Rippey post office, an EAS-11 level facility, provides retail service from 7:00 a.m. to 12:00 p.m. and 12:30 p.m. to 3:00 p.m., Monday through Friday, and 8:00 a.m. to 11:00 a.m. on Saturday. Lobby access hours are 24 hours, Monday through Saturday. *Id.*

The postmaster position became vacant on September 3, 2003, when the Rippey postmaster retired. A non-career officer-in-charge (OIC) was installed to operate the office. Retail transactions average 17 transactions daily (19 minutes of retail workload). Post office receipts for the last 3 years were \$27,387 in FY 2008; \$29,433 in FY 2009; and \$22,717 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$53,707 annually. *Id.* at 13.

After the closure, retail services will be provided by the Grand Junction post office located approximately 8 miles away.⁹ Delivery service will be provided by rural route service through the Grand Junction post office. The Grand Junction post office is an EAS-13 level office, with retail hours of 8:30 a.m. to 11:30 a.m. and 1:00 p.m. to 4:15 p.m., Monday through Friday, and 8:30 a.m. to 9:45 a.m. on Saturday. Seventy (70) post office boxes are available. *Id.* The Postal Service will continue to use the Rippey name and ZIP Code. *Id.* at 3, Concern No. 8.

⁷ Participant Statement received from Mary Weaver, December 14, 2011 (Participant Statement).

⁸ Public Representative's Reply Comments, January 12, 2012 (PR Comments).

⁹ *Id.* at 2. MapQuest estimates the driving distance between the Rippey and Grand Junction post offices to be approximately 7.8 miles (15 minutes driving time).

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Rippey post office. Petitioner contends that the Postal Service's decision to close the Rippey post office was predetermined and the Congressional inquiries were not properly addressed. Petition at 1; Participant Statement at 1. Petitioner argues that the closure places an inconvenience on the elderly and discusses the difficulty many customers will face with the added travel to the Grand Junction post office. Participant Statement at 1. In addition, Petitioner disputes the estimated economic savings, asserting that the annual lease cost and postmaster's salary could be reduced. Petition at 2; Participant Statement at 2. Lastly, she asserts that the Postal Service did not consider the customer borne costs and the installation cost of Cluster Box Units (CBUs). Petition at 2; Participant Statement at 2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Rippey post office. Postal Service Comments at 6. The Postal Service believes the appeal raises five main issues: (1) the effect on postal services; (2) the impact on the Rippey community; (3) the economic savings expected to result from discontinuing the Rippey post office; (4) the effect on postal employees; and (5) the procedural process of the discontinuance study. *Id.* The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Rippey post office should be affirmed. *Id.*

The Postal Service explains that its decision to close the Rippey post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;

- minimal impact on the community and employees; and
- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Rippey community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the procedural process of the discontinuance study, the effect on postal services, the effect on the community, economic savings, and effect on postal employees. *Id.* at 6.

Public Representative. The Public Representative concludes that the Postal Service followed all statutory and procedural obligations. PR Comments at 4. However, the Public Representative would like the Postal Service to (1) provide additional information on the type of replacement service that will be provided to the Rippey community; (2) further explore the possible locations of the Cluster Box Units; and (3) provide the community with additional data as to why the Rippey post office was chosen for a review for possible closure. *Id.* at 5, 9.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the

Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.*, § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On May 10, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Rippey post office. Final Determination at 2. A total of 225 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 65 questionnaires were returned. On May 25, 2011, the Postal Service held a community meeting at Rippey Community Building to address customer concerns. Fifty-nine (59) customers attended. *Id.*

The Postal Service posted the proposal to close the Rippey post office with an invitation for comments at the Rippey and Grand Junction post offices from July 8, 2011 through September 8, 2011. *Id.* The Final Determination was posted at the same two post offices from October 20, 2011 through November 21, 2011. Administrative Record, Item No. 49.

In this matter, the Postal Service addresses the adequacy of the process preceding issuance of the Final Determination. Postal Service Comments at 12. Petitioner contends that the Postal Service's decision to close the Rippey post office was predetermined and the Congressional inquiries were not properly addressed.

Petition at 1; Participant Statement at 1. The Postal Service asserts that these allegations are false. Postal Service Comments at 12. The Postal Service considered the letters submitted from Senators Harkin and Grassley and Congressman Latham. Postal Service Comments at 12; Final Determination at 2. In addition, it responded to a letter from Senator Grassley addressing Petitioner's concerns regarding the proposed closure of the Rippey post office. Postal Service Comments at 12.

Lastly, the Postal Service contends that it is obligated to develop a plan for each discontinuance, share the plan with customers, and address the concerns of each customer. Postal Service Comments at 13; Final Determination 2-12. The Postal Service asserts that it took these obligations seriously and provided extensive written and oral feedback to the Rippey community. Postal Service Comments at 13.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Rippey, IA is an incorporated community located in Greene County, IA. Final Determination at 12. The community is administered politically by the Mayor and the Rippey City Council. Police protection is provided by the Green County Sheriff. Fire protection is provided by the city. The community is comprised of those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal

Service met with members of the Rippey community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Rippey post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2-12.

The Postal Service explains it recognizes its substantial role in community affairs and takes its role seriously when it considers the discontinuance of a post office. Postal Service Comments at 9. It indicates that it will continue to use the Rippey name and ZIP Code. Final Determination at 3, Concern No. 8.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Rippey postmaster retired on September 3, 2003 and that an OIC has operated the Rippey post office since then. *Id.* at 2. It asserts that the temporary OIC may be separated from employment and that no other Postal Service employee will be adversely affected. *Id.*

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Rippey post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Rippey customers. Postal Service Comments at 6. It asserts that customers of the closed Rippey post office may obtain retail services at the Grand Junction post office located 8 miles away. *Id.* Delivery service will be provided by rural route service through the Grand Junction post office. *Id.*

Petitioner raises concerns regarding the installation of CBUs and the inconvenience customers will face while waiting for the rural carrier during inclement weather. Petition at 1-2, Participant Statement at 1. In addition, Petitioner expresses concern about the delivery of medicines in extreme weather temperatures to CBUs. Petition at 1; Participant Statement at 1. The Postal Service explains that for customers

choosing not to travel to the Grand Junction post office, retail services will be available from the carrier. Postal Service Comments at 7. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* Additionally, the Postal Service notes that in a case of hardship or special needs, arrangements can be made on a case by case basis. *Id.* Further, the Postal Service contends that it will receive guidance regarding the location of CBUs to guard against freezing units or damage due to weather conditions. *Id.* at 8. It notes that customers concerned about the delivery of medicines to CBUs may elect to use Post Office Box Service at the Grand Junction post office or accountable mail service which requires a signature of the addressee or addressee's agent. *Id.*

The Public Representative expresses concerns that the Postal Service is unsure at this late stage of the type of replacement service that will be extended to the Rippey community; whether it will be CBUs, curbside delivery or a combination of both. PR Reply Comments at 6. Further, she raises concerns about the location of the CBUs and whether the transition for customers will be seamless. *Id.* Because a location has not been confirmed and in the event the Grand Junction post office cannot accommodate the additional post office box customers, the Public Representative asserts that there may be interruptions in regular and effective service for some Rippey residents. *Id.* at 7. Lastly, the Public Representative notes that the Postal Service should be able to provide the community with additional data as to why the Rippey post office was chosen for a review for possible closure; such as an explanation to explain the declining revenue of the Rippey post office. *Id.* at 8.

The Final Determination indicates that the Rippey post office has 79 post office box customers. Final Determination at 2. By contrast, the Grand Junction post office only has 70 post office boxes available. *Id.* The Postal Service explains that it is aware of this shortfall and does not know if the Grand Junction post office will be able to accommodate the demand for additional boxes. Postal Service Memo to AR at 1. The Postal Service notes that it is working with the Rippey community to find a suitable location for CBUs in the event the Grand Junction post office cannot accommodate the

post office box demand. *Id.* The CBUs are free of charge to the customer and maintained by the USPS. *Id.*

The Postal Service has considered issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$53,707. Final Determination at 13. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$19,200), minus the cost of replacement service (\$9,772). *Id.* There is a one-time cost for the installation of CBUs of \$3,690. Postal Service Comments at 10. The Postal Service intends to fulfill its lease obligations through 2018; therefore, the expected annual savings will be \$34,507 and \$53,707 after 2018. Postal Service Memo to AR at 1. Additional savings may be realized by subleasing the property. *Id.*

Petitioner argues that the lease and salary expenses could be reduced by renegotiating the lease and reducing window service hours. Petition at 2; Participant Statement at 2. The Postal Service contends that even if the lease cost were reduced to zero, it would still have an annual savings of \$34,507. Postal Service Comments at 10. In addition, the Postal Service asserts it does not have the option to reduce the postmaster's salary in the manner suggested by Petitioner. *Id.*

Petitioner argues that the Postal Service failed to consider the customer-borne cost of the added travel to the Grand Junction post office. Petition at 2; Participant Statement at 2. Lastly, Petitioner argues that inefficiencies of the distribution center in Sioux City, IA have resulted in wasteful spending. Petition at 1. The Postal Service explains that it is not required to consider the travel cost of customers; the statute requires only that it consider the "economic savings to the Postal Service." Postal Service Comments at 11. In addition, the Postal Service asserts that the Sioux City facility is beyond the scope of the analysis it is required to undertake when deciding whether a closure is warranted. *Id.*

The Rippey post office postmaster retired on September 3, 2003. Final Determination at 2. The post office has since been staffed by a non-career OIC who,

upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67 United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; and Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Rippey post office has been staffed by an OIC for more than 8 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Rippey post office is affirmed.¹⁰

It is ordered:

The Postal Service's determination to close the Rippey, Iowa post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

¹⁰ See footnote 3, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Rippey post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster retired on September 3, 2003. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

A non-career OIC has been in place for more than 8 years. Given this extended period of time, and the Postal Service's current financial difficulties, it is clear that the Postal Service has no obligation to maintain a full-time postmaster in small facilities such as Rippey. Upon closure of the facility, the Postal Service may, at most, avoid continuing to pay the OIC level salary.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise

about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

The Commission has often expressed a concern—and I have consistently expressed the concern—that the maintenance of adequate service requires providing an adequate number of post boxes in the receiving facility. The Rippey post office serves 79 post office box customers, yet the administrative receiving post office in Grand Junction has only 70 post office boxes available. The record does not show that the Postal Service has sufficiently considered the issues raised by customers concerning the provision of effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Rippey, Iowa and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility for over 8 years, since September 2003, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

In addition, the current lease does not terminate until May 31, 2018, and does not have a 30-day termination clause. Administrative Record, Item 18 at 1. The Postal Service should note that any savings from the lease will not be realized for almost 6 years. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

The Postal Service also did not adequately consider the effects on the community and whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post office are not self-sustaining" as required by 39 U.S.C. § 404(d)(2)(A)(i) and (iii). The Administrative Record indicates there would be a shortage of post office boxes should all the Rippey post office box holders rent at the Grand Junction post office. While I appreciate that the Postal Service filed a Memorandum to explain that the Postal Service is working with the community to find suitable locations for cluster box units should it be necessary, this matter should be resolved before and not after the Final Determination has been issued.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Rippey post office and should be remanded.

Nanci E. Langley